

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ariana Thomas	Team: Squad #13	CCRB Case #: 201910774	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input checked="" type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 12/05/2019 1:00 PM, Saturday, 12/07/2019 3:30 PM	Location of Incident: § 87(2)(b) [REDACTED] in Queens; 102nd Precinct stationhouse	Precinct: 102	18 Mo. SOL 6/5/2021	EO SOL 1/20/2022	
Date/Time CV Reported Thu, 12/05/2019 7:15 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 12/17/2019 11:01 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Miguel Leon	10222	925607	102 PCT
2. An officer			
3. SGT Nicholas Guzman	03545	951800	102 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Caitlin Martin	26351	965307	102 PCT
2. POM Anthony Misuraca	14713	960950	102 PCT

Officer(s)	Allegation	Investigator Recommendation
A . POM Miguel Leon	Discourtesy: On December 5, 2019, at § 87(2)(b) [REDACTED] in Queens, Police Officer Miguel Leon acted discourteously toward § 87(2)(b) [REDACTED].	A . § 87(2)(g) [REDACTED]
B . POM Miguel Leon	Discourtesy: On December 5, 2019, at § 87(2)(b) [REDACTED] in Queens, Police Officer Miguel Leon spoke discourteously to § 87(2)(b) [REDACTED].	B . § 87(2)(g) [REDACTED]
C . POM Miguel Leon	Discourtesy: On December 7, 2019, at the 102nd Precinct stationhouse, Police Officer Miguel Leon spoke discourteously to § 87(2)(b) [REDACTED].	C . § 87(2)(g) [REDACTED]
D . POM Miguel Leon	Discourtesy: On December 7, 2019, at the 102nd Precinct stationhouse, Police Officer Miguel Leon acted discourteously toward § 87(2)(b) [REDACTED].	D . § 87(2)(g) [REDACTED]
E . An officer	Discourtesy: On December 7, 2019, at the 102nd Precinct stationhouse, an officer spoke discourteously to § 87(2)(b) [REDACTED].	E . § 87(2)(g) [REDACTED]
F . SGT Nicholas Guzman	Untruthful Statement: On March 22, 2021, Sergeant Nicholas Guzman provided a false official statement to the CCRB.	F . § 87(2)(g) [REDACTED]

### Case Summary

On December 5, 2019, § 87(2)(b) called IAB and filed this complaint, which was received by the CCRB on December 17, 2019.

On December 5, 2019, at approximately 1:00 p.m., § 87(2)(b) was at § 87(2)(b) in Queens. He and one of the employees engaged in a dispute that resulted in § 87(2)(b) sustaining a knee injury which required an ambulance. Police Officer Miguel Leon and Police Officer Caitlin Martin, both of the 102nd Precinct, arrived, as did an ambulance. While inside the ambulance, PO Leon allegedly slammed § 87(2)(b)'s keys into § 87(2)(b)'s hands (**Allegation A: Discourtesy, § 87(2)(g)**) and spoke discourteously toward him (**Allegation B: Discourtesy, § 87(2)(g)**).

On December 7, 2019, at approximately 3:30 p.m., § 87(2)(b) went to the 102nd Precinct stationhouse to obtain a copy of the police report regarding his dispute with the car dealership employee. There, he engaged in a verbal argument with PO Leon, who spoke discourteously to § 87(2)(b) (**Allegation C: Discourtesy, § 87(2)(g)**) and gave § 87(2)(b) the middle finger (**Allegation D: Discourtesy, § 87(2)(g)**). An unidentified officer also spoke discourteously to § 87(2)(b) (**Allegation E: Discourtesy, § 87(2)(g)**). No arrest or summons resulted from this incident.

The investigation determined that Sergeant Nicholas Guzman of the 102<sup>nd</sup> Precinct provided a false official statement to the CCRB (**Allegation F: False Official Statement, § 87(2)(g)**).

Body-worn camera ("BWC") footage of the first interaction on December 5, 2019 was obtained from the NYPD Legal Bureau. The footage is in IAs #82-85 (**Board Review 01-04**) and summarized in IAs #87-90 (**Board Review 05-08**). There is no video evidence of the second interaction because the incident date was not known until after the 30-day retention window.

### Findings and Recommendations

**Allegation (A) Discourtesy: On December 5, 2019, at § 87(2)(b) in Queens,**

**Police Officer Miguel Leon acted discourteously towards § 87(2)(b)**

**Allegation (B): Discourtesy: On December 5, 2019, at § 87(2)(b) in Queens,**

**Police Officer Miguel Leon spoke discourteously to § 87(2)(b)**

PO Leon's BWC footage begins in the ambulance, with PO Leon, PO Martin, and an unidentified female officer asking § 87(2)(b) about the dispute with the § 87(2)(b) employee (**Board Review 03**). § 87(2)(b) who is strapped into a stretcher, explains his side of the dispute. PO Leon repeatedly asks why § 87(2)(b) did not leave the dealership after the employee refused to repair his van. § 87(2)(b) says he did not leave because he had an appointment and was not hurting anyone. At the 8:08 minute-mark of the media player timestamp (visible at the bottom of the screen), PO Martin outstretches her arm, holds § 87(2)(b)'s keys in front of § 87(2)(b) and says, "Your keys." § 87(2)(b) ignores PO Martin and does not take his keys. At 08:14, PO Leon takes § 87(2)(b)'s keys from PO Martin and drops them into § 87(2)(b)'s lap. § 87(2)(b) subsequently drops his keys onto the floor beside the stretcher. § 87(2)(b) says the officers are taking the side of the business because the dealership's owner is a millionaire, and that he is going to call his councilmember, Assemblywoman Michelle Solages, and 911, to report that the officers are discriminating against him. PO Leon says, "Do what you gotta do, man. God bless you." § 87(2)(b) again says PO Leon is taking the side of the dealership because the owner is a millionaire. At 08:54, PO Leon replies, "I have no fucking clue who this guy is, and I don't care, and he doesn't care about you. I'm here because I was called."

§ 87(2)(b)'s statement was generally consistent with the BWC footage, except he said PO Martin was the officer who gave him his keys and that PO Martin slammed them into his hand. [Given that the BWC footage clarifies that PO Leon, not PO Martin, was the officer who provided the keys to § 87(2)(b) Allegation A has therefore been pled to PO Leon.] § 87(2)(b) complained that the officers were taking the side of the dealership, and PO Leon replied, "I don't give a fuck to him, neither you." § 87(2)(b) and PO Leon continued arguing for a few minutes, and the officers then exited the ambulance and left.

PO Leon's statement was generally consistent with the BWC footage (**Board Review 10**). He testified that PO Martin tried to hand § 87(2)(b) his keys but § 87(2)(b) refused to take them. PO Leon took the keys from PO Martin and dropped them into § 87(2)(b)'s lap. PO Leon acknowledged saying, "I don't give a fuck who he is, I don't care who you are, I'm just here to do my job." He said this because § 87(2)(b) was, "bitching and complaining" and had threatened to sue. PO Leon used the word "fuck" because he was upset.

PO Martin (**Board Review 11**) and EMT § 87(2)(b) (**Board Review 12**) both acknowledged hearing PO Leon direct profanity toward § 87(2)(b). EMT § 87(2)(b) stated that both § 87(2)(b) and PO Leon used profanity and yelled during the incident, but EMT § 87(2)(b) did not remember the context.

NYPD Patrol Guide, Procedure 200-02 requires that officers "render [their] services with courtesy and civility" (**Board Review 13**). Disciplinary Court No. 2018-18951 states that officers have a responsibility to act with decorum in their interactions with civilians, though there are certain situations where profane remarks made during a stressful or chaotic situation do not constitute misconduct (**Board Review 14**).

§ 87(2)(g)  
[REDACTED]

§ 87(2)(g)  
[REDACTED]

**Allegation (C): Discourtesy: On December 7, at the 102<sup>nd</sup> Precinct stationhouse, Police Officer Miguel Leon spoke discourteously to § 87(2)(b)**

**Allegation (D): Discourtesy: On December 7, at the 102<sup>nd</sup> Precinct stationhouse, Police Officer Miguel Leon acted discourteously to § 87(2)(b)**

§ 87(2)(b) testified that two days later, he went to the 102<sup>nd</sup> Precinct stationhouse on his attorney's advice to obtain a copy of the police report related to the dispute with the car dealership employee. When he arrived, he spoke with two female officers who were dressed in gray shirts and appeared to be "in training," at the front desk. § 87(2)(b) noticed PO Leon standing with a group of officers further inside the stationhouse and pointed him out to the female officers. PO Leon approached § 87(2)(b) who asked PO Leon for the criminal complaint report. PO Leon said there was no criminal complaint report but that the officers could prepare a harassment report for him. § 87(2)(b) said he



§ 87(2)(g)

**Allegation (E): Discourtesy: On December 7, 2019, at the 102<sup>nd</sup> Precinct stationhouse, an officer spoke discourteously to § 87(2)(b)**

§ 87(2)(b) said that in response to PO Leon raising his middle finger, § 87(2)(b) said, “Fuck you.” At that point, a group of about 10 officers from all around the room surrounded § 87(2)(b) and yelled, “Get out!” One officer said, “Get the fuck out!” § 87(2)(b) did not see which officer said this. § 87(2)(b) told the officers that he would leave if they opened the door for him, as he was walking with crutches. An officer opened the door and § 87(2)(b) left the stationhouse. In a subsequent phone statement, § 87(2)(b) described the officers who surrounded him as white men dressed in uniform, one with an average build and one of with a slim build, but he could not describe any of them further (**Board Review 16**).

PO Leon testified that he did not hear any officer say, “Get the fuck out” or direct any profanity towards § 87(2)(b)

Sgt. Guzman testified that he instructed an officer, he could not remember who due to the high volume of officers in the stationhouse during the tour change, to ask § 87(2)(b) to leave. This officer asked § 87(2)(b) to leave. § 87(2)(b) cursed and raised his voice, but ultimately left of his own free will. Sgt. Guzman did not recall seeing a group of officers assist in asking § 87(2)(b) to leave the stationhouse. Sgt. Guzman did not tell § 87(2)(b) to “get the fuck out” and he did not hear any officer do so.

§ 87(2)(b) did not see which officer directed profanity toward him, and the testimony of PO Leon and Sgt. Guzman did not aid in identifying this officer. § 87(2)(g)

**Allegation (F): False Official Statement: On March 22, 2021, Sergeant Nicholas Guzman provided a false official statement to the CCRB.**

As discussed above within the analysis of Allegation C, Sgt. Guzman testified that PO Leon conducted himself in a professional manner while interacting with § 87(2)(b) at the stationhouse. He said PO Leon assisted § 87(2)(b) and was as helpful as he could be. Sgt. Guzman went on to testify that he has always observed PO Leon to be professional and friendly, treating everyone with respect. In contrast to Sgt. Guzman’s statement, § 87(2)(b) and PO Leon were both consistent in describing the interaction as one where not only § 87(2)(b) became upset, but where both parties became loud. PO Leon testified that he raised his voice at § 87(2)(b) and told him that he was, “not dealing with this.” PO Leon acknowledged that once he started to “get loud” with § 87(2)(b) Sgt. Guzman ordered him to leave.

NYPD Patrol Guide, Procedure 203-08 prohibits officers from making false official statements during CCRB interviews (**Board Review 20**). A false official statement is defined as “an intentional statement that a member of the service knows to be untrue, which is material to the

outcome of an investigation, proceeding, or other matter in connection with which the statement is made.”

§ 87(2)(g)

PO Leon has a propensity to use profanity when interacting with civilians, and he has acknowledged doing so in this case and in past cases. § 87(2)(g)

PO Leon acknowledged telling § 87(2)(b) that he was “not dealing with this,” and that he “got loud” with § 87(2)(b) to the point that Sgt. Guzman ordered him to leave the stationhouse. § 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- § 87(2)(b)
- PO Leon has been a member of service for 20 years and has been named as a subject in 13 CCRB complaints and a total of 26 allegations, two of which were substantiated.
  - In #201005917, a discourtesy allegation was substantiated; the Board recommended Command Level Instructions, and the NYPD imposed Instructions.
    - In that case, PO Leon allegedly told a civilian to “shut the fuck up, bitch.” PO Leon acknowledged saying, “shut the fuck up,” but denied saying, “bitch,” and he said in his CCRB interview that he made the comment because the civilian was arguing, yelling, and screaming.
  - In #201809987, allegations of discourtesy and improper use of BWC were substantiated; the Board recommended Formalized Training, and the NYPD imposed no penalty.
    - In that case, PO Leon allegedly called a civilian “asshole. PO Leon denied doing so, but acknowledged saying, “fuck you,” and he said in his CCRB interview that he made the comment because the civilian had “a dirty fucking mouth and didn’t stop cursing the whole fucking time.”
  - Case #202101320 remains under investigation as of the date of this report.
    - In that case, PO Leon told a civilian who was yelling and cursing at a neighbor to “shut the fuck up,” and he told the neighbor, “don’t fuck with him, he’s not going to fuck with you.” In his CCRB interview, PO Leon said the civilian “was gonna kick [the neighbors’] ass after we left, throw some shit, break windows. Dude, if you’re gonna do that, wait for us to fuckin’ leave, what’s the matter with you.” PO Leon said he only recalled using the word “fuck” twice during the incident, but said he likely used it more. Regarding his use of the word “fuck,” PO Leon said, “It comes out

every fucking word, you know, we live in Queens, we live in the city, get a pair of balls, don't be so sensitive... If you live in Queens, you're going to hear the F word."

**Mediation, Civil and Criminal Histories**

- § 87(2)(b) rejected mediation.
- According to the NYC Office of the Comptroller, as of January 14, 2021, § 87(2)(b) has not filed a Notice of Claim regarding this incident (**Board Review 18**).
- According to the Office of Court Administration ("OCA"), § 87(2)(b) has no criminal conviction in New York City (**Board Review 19**).

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Squad No.: 13

Investigator: \_\_\_\_\_      Inv. Ariana Thomas      05/05/2021  
Signature      Print Title & Name      Date

Squad Leader: \_\_\_\_\_      IM Laura Kastner      05/06/2021  
Signature      Print Title & Name      Date